

# TOWN OF WILTON

## SELECTMEN'S MINUTES

DATE: January 20, 2014

PLACE: Town Office

TIME 6:34 P.M.

PRESENT: Chairman Daniel E. Donovan, III, Selectmen William F. Condra and Richard E. Swanson, and Recording Secretary Pamela Atwood.

The meeting was called to order at 6:30 P.M. by Chairman Donovan.

Dawn Tuomala was on the agenda to discuss budgets. She stated that Ian McSweeney from the Russell Foundation called her today saying the Conservation Commission has approved \$80,000 for the Frye/High Mowing Conservation purchase. They are doing this instead of presenting a warrant article. Dawn talked about the income figures next. She is asking the Board to look at them and approve them. Chairman Donovan talked about the properties the Board voted to take by deed. He stated that they will take bids and the process will be advertised. He noted that some revenue will be generated from these sales. After a further discussion on individual line items Selectman Swanson stated that he wants to keep taxes flat. Chairman Donovan said that realistically you can't expect that to happen with two bonds to pay for. Selectman Condra will cover the Budget Committee meeting in Dan's absence next week.

Chairman Donovan adjourned the meeting to attend a presentation put on by the School Board at 7:04 P.M.

The regular meeting was called to order at 8:11 P.M.

Lincoln Geiger asked if he could address the Board, stating that he can't seem to come into compliance with a Zoning variance that he

has. He stated that it is a hardship not to be able to be open on Sunday. The current Site Plan has him operating Monday through Saturday. Lincoln stated that the Sunday is just another day and useful for them to continue. Selectman Swanson stated that it is taking money out of people's pocket. Chairman Donovan stated that he is troubled by what is going on; saying that he has been on the Board for nine years and has never heard so much dissension as in the past few months. He said there is a history of lack of good faith with the Café situation; they have expanded in a variety of areas that are not included in their Site Plan, like the Rock Concerts and extra seating. He has heard that some of the neighbors have retained a lawyer. Chairman Donovan stated that he is not in favor of overlooking an illegal action in anticipation of possible Planning Board approval in the future.

Selectman Swanson thinks it brings something special to the area and traffic is negligible. He wants to help them succeed. The Farm to Table idea is special. He stated that they are not doing criminal things; they are growing in a way that needs to come into compliance. Also he doesn't understand the difference between being open 7 days and 6 days.

Selectman Condra gave information on the Zoning and Planning Board processes and how they are supposed to function. He stated that it is unfair to the Planning Board and the other Boards to put them in the position of waiting for the process of requested actions, but to have those actions already taking place. He has a hard time accepting that. There is speculation that the seating capacity may be as high as 30 seats. They are in violation of the approved Site Plan which states they can be open 6 days with 14 seats. Selectman Condra feels it is unfair and he stands with Chairman Donovan. He said they must operate within the confines of the approved Site Plan. He mentioned the daycare operation at Pine Hill; they also did not get the proper approval. He stated that it is out of control and could make the

Planning Board ineffective.

Mr. Geiger stated that he should have included Sundays in his original plan since he had already done Sunday brunches for a while. He said he guesses he should have played by the rules.

Chairman Donovan addressed Selectman Swanson's statement about being a criminal action. Dan told how the Building Inspector went up to the Café when the Board first became aware of the situation. Lincoln came to the Selectmen and agreed to go to the Planning Board. Had it not been for the Board of Selectmen, as a courtesy acting as they did and not issuing a Cease and Desist order, it would have become criminal.

Motion: A motion was made by Chairman Donovan that we not extend the accommodation that Lincoln is asking us to grant pending Planning Board approval; that he be open on Sunday.

Selectman Swanson asked if he could change his days of operation.

Chairman Donovan stated that there is a motion on the floor.

Selectman Condra seconds the motion and opens it up for further discussion.

Next, there was a discussion about Lincoln not getting on the agenda to discuss this. Selectman Swanson stated that he did not receive his agenda until 2 P.M. that day. He would like to discuss how we notice meetings, saying it ought to be posted on Friday because he wants a more transparent process. Lincoln said that he is willing to withdraw his request and come back next week so it can be posted. Chairman Donovan is not here next week and that would present an issue.

Selectman Condra moved the question. Selectman Swanson approved the Café being opened Tuesday through Saturday. Bill wants to vote

on the original motion. Rick moved to amend the motion as follows:

Motion: To amend the motion so that the Café has the opportunity to switch one day with another to maintain its' five days per week status.

Dan seconds the amended motion asking for a vote on the amendment. He clarified the motion as amended by Selectman Swanson's motion that it is to allow the substitution of one day, that being Tuesday for Sunday.

A vote took place but Selectman Swanson stated that he thought he was voting on the motion to deny but he would amend the motion to switch one of their five days.

Selectman Swanson is in favor of them opening on Sunday. Chairman Donovan would vote no. Selectman Condra votes to allow transposing Tuesday for Sunday. Motion carries.

For purposes of clarification, the Café can open on Sunday with a substitution of Tuesday with 14 seats.

Harry Dailey of Abbot Hill Road was asked if he would like to make a comment. He stated that there is a disregard for the process. They (the Café) were told very specifically that they have to continue to operate under their current guidelines. Harry stated that he is all for the business; but they have not shown good faith and the location is not the place for the business. Harry stated that he is concerned about Selectman Swanson having a conflict; he stated that there are two camps: High Mowing and everyone else. They have encroached and don't seem to follow the same rules. He sees a conflict with Selectman Swanson sitting on the Board during these discussions. Selectman Swanson says it's not a conflict of interest. Harry asked if there is a relationship between High Mowing, Pine Hill and the Café. Selectman Swanson stated that he has no stake in the Café. Harry said that

doesn't mean you don't have an interest in it.

Mr. Dailey also reinforced that they shouldn't get rewarded if they continue not to follow the rules. It is the Selectmen's role to enforce the rules and they have decided to give them something they already have. He said they would have gotten the support if they would follow the rules. Chairman Donovan thanked Harry.

The next subject that was discussed was a request for salary information for the Water Superintendent's position. Chairman Donovan cited RSA 91-A:1 stating that it is clear and the requestor had every right to the information. Selectman Condra agreed stating that his salary is set by the Water Commission and goes through the Budget Committee process.

Selectman Swanson asked if reviews are given to employees. Chairman Donovan stated that they are not formally given as the Town never had the financial ability to reward employees. The Selectmen were in agreement that performance reviews would be good to pursue.

Another resident, Jim Fischer of Abbot Hill Road was recognized. He asked what the Board of Selectmen want for the Café. He asked what will happen at the end of the three year lease if everything gets approved. Chairman Donovan stated that there was L-Chip funding and with that comes alteration restrictions. Mr. Fischer asked that they do what's right for the neighborhood and Wilton. He feels the Café has a lot of interest but is in the wrong place. Selectman Swanson asked why he didn't like the Café. Jim stated the unpredictable growth, and that Lincoln says one thing and does another. He said that it is a great idea but needs to be in a central business district which would bring more people downtown so Wilton doesn't end up like Merrimack without a downtown.

Selectman Condra stated that they must go through the right Boards

and this is as far as he is going with the Cafe. They must act in accordance with the Land Use Regulations or they get a Cease and Desist.

The Main Street Association wrote a letter to the Board regarding parking. It was noted that there were no signatures from business owners of C & S Pizza or Joan Lemire Real Estate. The Selectmen decided to schedule a Public Hearing on February 17th to collect public input for a suggested parking scheme.

The proposed equipment charges list that Steve Elliott submitted was approved by the Board.

Chairman Donovan made a motion seconded by Selectman Condra to adjourn the meeting at 10:07 P.M.

A unanimous vote followed.

Respectfully submitted;

Pamela L. Atwood, Recording Secretary